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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,318	05/04/2001	Kengo Okajima	206732US0	7354
22850	7590	04/22/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NGUYEN, NGOC YEN M	
		ART UNIT	PAPER NUMBER	1754

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AC

Office Action Summary	Application No.	Applicant(s)
	09/848,318	OKAJIMA, KENGO
	Examiner	Art Unit
	Ngoc-Yen M. Nguyen	1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 and 15-28 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's election with traverse of Group I and sodium chloride species in Paper filed February 9, 2004 is acknowledged. The traversal is on the ground(s) that the purified salts of Group II are prepared by the processes of Group I, thus, the search for Group I considerably overlaps with that for Group II. This is not found persuasive because the salts of Group II can be produced by a materially different process such as by reacting 2 pure reactants to form pure salt, without requiring any purification step. The search of the product is different than that for the process.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear if "the material", which is subjected to heat treatment, refers to just the "organic material" or to the "inorganic salt containing and organic material".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1754

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-12, 15, 18-22, 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zampieri (5,122,233).

Zampieri '233 discloses a process for treating mixture of brines and contaminates mineral salts (note title).

The process comprises the steps of

- a) substantially separating organic components from the process mixture,
- b) subjecting the resulting mixture to vacuum evaporation step,
- c) thermally treating the partially dried mineral salts or mixtures thereof at an elevated temperature and thereafter obtaining pure dry mineral salts or mixture thereof,
- d) condensing the vapor resulting from the vacuum evaporation step and subjecting said vapor to a reverse osmosis step and
- e) obtaining from said reverse osmosis step pure water (note column 3, lines 7-21).

The granular size of the salt crystals is from 0.2-03 mm (note column 5, lines 1-5). The sodium chloride can be mixed with other salts as well as small quantities of natural or process-caused contaminations, such as chlorides of other metals, bromides, iodides, carbonates, hydrogen carbonates, phosphates or sulphates or other salts. In the next step, the mineral salts or mixtures thereof, are subjected to a thermal treatment at an elevated temperature. This can be carried out by traditional means, for example a conveyor belt (which is considered as a moving bed) or a rotary tubular kiln (note

column 6, line 21-42). The thermal treatment of the mineral salts or mixtures thereof is carried out at an elevated temperature. The temperature is preferred in the range of 140 to 500 °C. This range overlaps the claimed range.

With respect to the encompassing and overlapping ranges previously discussed, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time of invention to select the portion of the prior art's range which is within the range of the applicants' claims because it has been held *prima facie* case of obviousness to select a value in a known range by optimization for the results. *In re Boesch*, 205 USPQ 215. Additionally, the subject matter as a whole would have been obvious to one of ordinary skill in the art at the time invention was made to have selected the overlapping portion of the range disclosed by the reference because overlapping ranges have been held to be a *prima facie* case of obviousness. *In re Malagari*, 182 USPQ.

The chloride of other metal can be considered as an "oxidizing agent" and the mixture of the sodium chloride with the chloride of other metal is considered as the claimed "chemical treatment" step.

For the source of sodium chloride, it would have been obvious to one of ordinary skill in the art to use any sodium chloride starting material as long as such starting material is in need to be purified.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 1754

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc-Yen M. Nguyen whose telephone number is (571) 272-1356. The examiner is currently on Part time schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Stan Silverman can be reached on (571) 272-1358. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed (571) 272-1700.

Ngoc-Yen Nguyen
Ngoc-Yen M. Nguyen
Primary Examiner
Art Unit 1754

nmm
April 19, 2004